

**Kansas Division of Workers Compensation
Fraud and Abuse Unit
Annual Report
FY2005**



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FRAUD & ABUSE SECTION

The Workers Compensation Fraud and Abuse investigation Unit was established in 1994. The unit is staffed with three special investigators, an administrative specialist, and an Assistant Attorney General, who supervises the unit. The unit's responsibilities include identifying potential fraud and abuse in the workers compensation arena by investigating allegations of violations of the workers compensation regulations and laws that are referred to or developed by the unit, as stated in K.S.A. 44-532, K.S.A. 44-557, K.S.A. 44-5, 120 and K.S.A. 4-5, 125. Provable violations may be taken before a hearing officer in a civil action or may be presented to local county or district attorneys for criminal prosecution.

In fiscal year 2005, 317 cases were initiated. Eighty-five cases were referred for administrative charges. Collection for fines and assessments totaled \$139,750.44 during the 2005 fiscal year.

The objectives of the unit are to assure that the injured worker receives timely, required medical treatment and benefits; protect the employer, carrier and medical provider from fraudulent acts; and assure that businesses within the state are compliant, by maintaining workers compensation insurance coverage. The unit also assures that the division receives the required documentation within the time period set forth by statute.

Referrals

Information Received by the Unit

The Fraud & Abuse unit receives information regarding alleged fraud and other violations of the workers compensation laws by phone, fax, E-mail through the KDOL Web site, regular mail or a submission from one of the other sections of the Division of Workers Compensation. An allegation of fraud and abuse is designated as a referral. This referral is reviewed by the Assistant Attorney General to determine if sufficient information is evident to warrant an investigation. If there is sufficient information, the case is assigned to a special investigator for investigation. If insufficient information exists, the matter is returned to the complaining party for further information; or if that is not possible, the referral is recorded but no investigation commences.

Types of Fraud

The unit classifies the type of fraud reported as it relates to the fraud and abuse statutes as well as the compliance statutes. Table 4-1 lists the types of fraud, abuse, and compliance cases reported cases over the past year.

Table 4-1
Number of Fraud, Abuse and Compliance Cases Reported

Type of Fraud, Abuse and Compliance Referrals	Total
Obtaining or denying benefits by making false statements either orally or written: K.S.A. 44-5,120 (d)(4)	51
Failing to confirm benefits to anyone providing treatment to a claimant: K.S.A. 44-5 120(d)(15)	4
Refusing to pay compensation as and when due: K.S.A. 44-5,120 (d)(18)	7
Refusing to pay any order awarding compensation: K.S.A. 44-5,120 (d)(19)	4
Failing to timely file accident reports: K.S.A. 44-557	25
Failing to maintain workers compensation insurance when required: K.S.A. 44-532 (d)	214
All other fraudulent and abusive practices	12

Source: Kansas Division of Workers Compensation

Investigations

The Fraud unit has three full time investigators. These investigators are not law enforcement officers. However, they perform almost identical investigative duties as sworn law enforcement officers. The investigation process includes interviewing witnesses, collecting evidence, forming liaisons with law enforcement groups as well as special fraud investigation units within the insurance industry, and testifying in administrative and criminal actions.

Once an investigation is complete, the investigator will prepare an investigative summary for the Assistant Attorney General to review. Criminal or administrative action commences if the Assistant Attorney General determines that there is sufficient information to sustain the burden of proof in either a criminal or administrative action.

If the information indicates misconduct on the part of an insurance company, that information is referred to the Kansas Insurance Department, which has an anti-fraud unit that investigates and prosecutes insurance fraud.

Prosecution

The unit is authorized to initiate criminal or administrative action against individuals and entities that appear to have committed fraud or abuse of the workers compensation system. The Unit has been extremely aggressive in this area. In Table 4-2, civil actions are separated into compliance and fraud actions.

Table 4-2
Number of Cases

Compliance	70
Fraud/Abuse	15
Criminal	0
Total	85

Source: Kansas Division of Workers Compensation

Collections

During either a criminal or administrative action, a penalty, fine or restitution is requested, but not necessarily ordered, by the judge or hearing officer. The total amount collected for FY2005 was \$139,750.44. The unit makes every attempt to collect the civil monetary penalty owed to the unit without any assistance. However, in some instances, it may be necessary for the Legal Services Division of the Kansas Department of Labor to file a collection action. Once the money is received, by law it must be deposited in the appropriate fund.

Table 4-3
Fraud, Abuse, and Compliance Collections

Fraud and Abuse Fines: K.S.A. 44-5,120 & 44-557	\$6,291.78
Compliance Fines: K.S.A. 44-532	\$128,030.47
Restitution	\$5,428.19
Total	\$139,750.44

Source: Kansas Division of Workers Compensation

Conclusion

The Division of Workers Compensation Fraud and Abuse unit will continue to aggressively investigate and prosecute workers compensation violators. If you wish to report a suspected violation of the workers compensation act or simply have questions, please do not hesitate to contact the division.

**FRAUD HOTLINE**

1-800-332-0353 24hrs/day
1-785-296-6392 (8:00am-5:00pm)

**FRAUD E-MAIL ADDRESS**

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